# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 5870 of 1998

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE KS JHAVERI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**STATE OF GUJARAT - Petitioner(s)**

**Versus**

**PRAVINSINH GULABSINH CHAUHAN - Respondent(s)**

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**Appearance :**
MRS HANSA PUNANI AGP for Petitioner No(s).: 1.

MR UM SHASTRI for Respondent No(s).: 1.

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**CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**

**Date : 16/08/2005**

**ORAL JUDGMENT**

1.0 The petitioner State has prayed to quash and set aside the order dated 30.07.1997 passed by the Labour

Court, Godhra in Recovery Application No. 178 of 1990, whereby the said application was allowed.

2.0 The brief facts of the case are that the respondent herein was employed as a daily wager by the petitioner State. It was the case of the respondent before the Labour Court that the respondent was made to work by the petitioner beyond the stipulated eight hours of work and that he was not even given any Identity Card or Pay-slip. Against the said action, the respondent filed recovery application as aforesaid before the Labour Court. The Labour Court, by impugned order, allowed the said application and directed the petitioner to pay Rs.17,843/- to the respondent herein towards the dues and Rs.1000/- towards costs. Hence, this petition.

3.0 While issuing Notice on 24.07.1998, this Court had stayed the execution of the impugned order, on condition that the petitioner deposits the amount in question with the Registry of this Court on or before 25.08.1998. The aforesaid relief granted by this Court has continued till today.

4.0 I have heard learned counsel for the parties and

perused the documents placed on record. Having gone through the impugned order, it appears that the Labour Court has not considered the reply filed by the petitioner herein, and, more particularly, the contentions raised in Paras 6 & 7 of the reply. Apart from that, under Section 33(C)(2) of the Industrial Disputes Act, 1947, the Labour Court has no jurisdiction to adjudicate over an issue of Over-time. Hence, I am of the opinion that the Labour Court has committed serious error in exercising jurisdiction not vested in it. In that view of the matter, the impugned order of the Labour Court deserves to be quashed and set aside.

5.0 In the result, the petition is allowed. The impugned order dated 30.07.1997 passed by the Labour Court, Godhra in Recovery Application No. 178 of 1990 is quashed and set aside. Rule is made absolute accordingly with no order as to costs. Registry is directed to return the amount deposited before this Court, pursuant to the order dated 24.07.1998, to the petitioner State.

(K. S. JHAVERI, J.)

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